

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 1:02-cr-157 (3)

Also 1:07-cv-594

-vs-

District Judge Susan J. Dlott

Chief Magistrate Judge Michael R. Merz

:

STEVEN M. RENNICK, SR.,

Defendant.

DECISION AND ORDER ON MOTION FOR PSYCHIATRIC EXAMINATION

This case is before the Court on Defendant's Motion to Order a Psychiatric or Psychological Study (Doc. No. 262). This case is presently pending on Defendant's Motion to Vacate under 28 U.S.C. § 2255.

As authority for the Motion, Defendant relies on 18 U.S.C. § 4247(b). Upon consideration, the Court does not believe that the referenced section or indeed any authority in Chapter 313 of Title 18 provides for an examination in these circumstances. 18 U.S. C. § 4241 provides for an examination to determine **current** competency to stand trial or to be subjected to probation or supervised release revocation proceedings. As the Court understands Defendant's position, it is that he contests his competency to enter a guilty plea at the time he did so, August 19, 2003, rather than his current competency. The statute does not provide for ordering a competency evaluation of a person's competency at some time in the past, nor is this Court aware of any psychological testing which would be capable of producing an admissible opinion retrospectively on competency.

Moreover, the issue of Defendant's competency at the time of his plea has already been

presented to the Court of Appeals and that court found no error in the acceptance of the plea (See Doc. No. 251). Finally, the extensive Declaration of Defendant attached to the Motion does not give this Court reasonable cause to believe Defendant is not currently competent.

The other type of examination authorized by Chapter 313 is an examination to determine sanity at the time of the offense in suit. See 18 U.S.C. § 4242. An examination under that section is available, however, only if a defendant intends to rely on the defense of insanity, which Defendant Rennick did not do and does not now claim.

Accordingly, the Motion is DENIED.

August 20, 2007,

s/ **Michael R. Merz**
Chief United States Magistrate Judge